



CULLEN and DYKMAN LLP

DAVID EDELBERG
PARTNER
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Continental Plaza
433 Hackensack Avenue
Hackensack, New Jersey 07601
Telephone (201) 488-1300 • Facsimile (201) 488-6541

November 19, 2018

By Regular Mail and Email:

All Parties on the Annexed Service List

**Re: In re Dianna Guadagnino
Case No. 17-12951 (RG)**

Dear Sir/Madam:

Please be advised that this firm represents the Dianna Guadagnino, the debtor regarding the above referenced matter. Enclosed herewith I am serving upon you the following:

1. An Order, dated November 19, 2018, scheduling a hearing on the enclosures on November 28, 2018 at 11:00 a.m.
2. The Debtor's Notice of Motion Seeking Approval of Post-Petition Financing, a Supporting Application, a Supporting Certification and a proposed form of Order.
3. The Debtor's Application and proposed form of Order Seeking Expedited consideration of the Financing Application.
4. A Certification of Service.

Thank you.

Sincerely,

CULLEN AND DYKMAN LLP

David Edelberg

DE/hq
Encl.

Cc: Ms. Dianna Guadagnino (By email: diannanyc@hotmail.com)

F:\EDELBERG\Guadagnino Dianna\Correspondence\service list (finance order) 11.19.18.docx

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ALBANY

LONG ISLAND

MANHATTAN

NEW JERSEY

WASHINGTON, D.C.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1(a)

CULLEN AND DYKMAN LLP

433 Hackensack Avenue
Hackensack, NJ 07601
(201) 488-1300 (Tel)
(201) 488-6541 (Fax)
David Edelberg, Esq.
dedelberg@cullenanddykman.com
Counsel to Dianna Guadagnino

In Re:

DIANNA GUADAGNINO

Debtor.

Case No.: 17-12951(RG)

Chapter: 11

Hearing Date: Nov. 28, 2018 at 11:00 a.m.

Judge: Honorable Rosemary Gambardella

CERTIFICATION OF SERVICE

1. I, Heidy Quintero:

☐ represent _____ in this matter.

☒ am the secretary/paralegal for David Edelberg, who represents Dianna Guadagnino in this matter.

☐ am the _____ in this case and am representing myself.

2. On November 19, 2018, I sent a copy of the following pleadings and/or documents to the parties listed in the chart below in the manner set forth below.

a) Notice of Motion to Approve Post-Petition Secured Loan;

b) Motion in Support of Debtor's Motion for Entry of an Order Approving Post-Petition Secured Financing;

- c) Supporting Certification of Diana Guadagnino in Support of Debtor's Motion for Entry of an Order Approving Post-Petition Secured Financing;
- d) Proposed Order Approving Debtor's Motion for Post-Petition Secured Financing; and
- e) This Certification of Service.
- f) Order dated November 19, 2018, Scheduling a November 28, 2018 hearing on the Financing Application.

I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Date: November 19th, 2018


Heidy Quintero

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
Office of the United States Trustee One Newark Center, Suite 2100 Attn: Trustee: David Gerardi, Esq. Newark, NJ 07102 Email: David.Gerardi@usdoj.gov	United States Trustee	<input checked="" type="checkbox"/> E-Mail <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input checked="" type="checkbox"/> Other - ECF <small>(As authorized by the Court or by rule. Cite the rule if applicable.)</small>
Joseph J. Asterita, Esq. Bonfiglio & Asterita, LLC 66 Reckless Place Red Bank, NJ 07701 Email: Joe@BALawllc.com	Counsel for JJS Capital Group	<input checked="" type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF <small>(As authorized by the Court or by rule. Cite the rule if applicable.)</small>
Emmanuel J. Argentieri, Esq. Romano Garubo & Argentieri LLC 52 Newton Ave. PO Box 456 Woodbury, NJ 08096 Attorneys for M&T Bank Email: svirgilio@rgalegal.com	Attorneys for M&T Bank	<input checked="" type="checkbox"/> E-Mail <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input checked="" type="checkbox"/> Other - ECF <small>(As authorized by the Court or by rule. Cite the rule if applicable.)</small>
Wells Fargo Home Mortgage PO Box 10335 Des Moines, IA 50306	Secured Creditor	<input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF

		(As authorized by the Court or by rule. Cite the rule if applicable.)
Powers Kirn, LLC 728 Marine Hwy., Ste 200 PO Box 848 Moorestown, NJ 08057 Email: angela.pattison@powerskirn.com	Attorneys for US Bank National Association as Trustee for MASTR Asset Packed Securities Trust	<input checked="" type="checkbox"/> E-Mail <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input checked="" type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
Dianne Clemente 4112 Ramapo Court Riverdale, NJ 07457 Email: diannecllemente@gmail.com	Secured Creditor	<input checked="" type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
Denise Carlon, Esq. Brian C. Nicholas, Esq. KML Law Group, PC 216 Haddon Avenue, Suite 406 Westmont, NJ 08108 Email: dcarlon@kmlawgroup.com Email: bnicholas@kmlawgroup.com	Attorneys for Bank of America, N.A.	<input checked="" type="checkbox"/> E-Mail <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input checked="" type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
Nicholas P. Edwards Shelton, Harrison & Pinson, PLLC 701 Highlander Blvd, Suite 270 Arlington, TX 76015 Tel: 817.522.7550 Email: Bankruptcy@shp-law.com	Attorneys for Wells Fargo Bank, N.A., as Trustee for Carrington Mortgage Loan Trust	<input checked="" type="checkbox"/> E-Mail <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input checked="" type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
William J. Becket, Esq. Becket and Lee 16 General Warren Blvd. Malvern, PA 19355 Tel: 610-644-7800	Attorneys For Navient	<input checked="" type="checkbox"/> E-Mail <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input checked="" type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
Nancy Isaacson, Esq. Greenbaum Rowe Smith & Davis, LLP PO Box 5600 Woodbridge, New Jersey 08830 Tel: 732-549-5600 Email: nisaacson@greenbaumlaw.com	Counsel for Liberty Park Commons LLC	<input checked="" type="checkbox"/> E-Mail <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input checked="" type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
New Jersey Motor Vehicle Commission PO Box 160 Trenton, New Jersey 08666		<input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
State of New Jersey Division of Taxation Judgment Section - A PO Box 245		<input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF

Trenton, NJ 08695-0245		(As authorized by the Court or by rule. Cite the rule if applicable.)
Gurbir S. Grewal, Attorney General Office of the Attorney General RJ Hughes Justice Complex 25 Market Street, Box 080 Trenton, New Jersey 08625-0080		<input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
Vivian Martinez c/o Law office of Patrick Patel 580 Newark Avenue Ste B, Jersey City, NJ 07306 Email: pgplawnj@gmail.com		<input checked="" type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
Ramanjit Chawla, D.A.G. Tax Bankruptcy Debt Recovery Section Division of Law, Richard J. Hughes Justice Complex 25 Market Street P.O. Box 106 Trenton, NJ 08625 Ramanjit.Chawla@law.njoag.gov		<input checked="" type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
Jersey City Tax Collector 280 Grove Street Room 101 Jersey City, New Jersey 07302		<input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
Jai Bajrangi Invest, LLC 2449 Kennedy Blvd. Jersey City, New Jersey 07302		<input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

CULLEN AND DYKMAN LLP
433 Hackensack Avenue
Hackensack, NJ 07601
(201) 488-1300 (Tel)
(201) 488-6541 (Fax)
David Edelberg, Esq.
Counsel to Dianna Guadagnino

In Re;

DIANNA GUADAGNINO,

Debtor.

FILED
JEANNE A. NAUGHTON, CLERK

NOV 19 2018

U.S. BANKRUPTCY COURT
NEWARK, N.J.
BY C. R. Gambardella DEPUTY

Case No.: 17-12951 (RG)

Chapter: 11

Judge: Rosemary Gambardella

**ORDER SHORTENING TIME PERIOD FOR NOTICE,
SETTING HEARING AND LIMITING NOTICE**

The relief set forth on the following pages, numbered two (2) and three (3) is hereby **ORDERED**.

11-19-18

Rosemary Gambardella
USBJ

After review of the application of Dianna Guadagnino for the reduction of
time for a hearing on Motion to Approve Post-Petition Financing, Expunge of Judgment Liens and
granting Related Relief under Fed. R. Bankr. P. 9006(c)(1), it is

ORDERED as follows:

1. A hearing will be conducted on the matter on November 28, 2018 at 11:00 AM in
the United States Bankruptcy Court, 50 Walnut Street, Newark, New Jersey,
Courtroom No. 3E.

2. The Applicant must serve a copy of this Order, and all related documents, on the following parties:
The United States Trustee, all Mortgage and Lien Holders upon the Affected Properties, and all Parties
that have filed a Notice of Appearance herein.

by ☐ each, ☒ any of the following methods selected by the Court:

☒ fax, ☒ overnight mail, ☐ regular mail, ☒ email, ☒ hand delivery.

3. The Applicant must also serve a copy of this Order, and all related documents, on the following parties:

by ☐ each, ☐ any of the following methods selected by the Court:

☐ fax, ☐ overnight mail, ☐ regular mail, ☐ email, ☐ hand delivery.

4. Service must be made:

☐ on the same day as the date of this order, or
☒ within 1 day(s) of the date of this Order.

5. Notice by telephone:

☒ is not required

☐ must be provided to _____

☐ on the same day as the date of this Order, or

☐ within _____ day(s) of the date of this Order.

6. A *Certification of Service* must be filed prior to the hearing date.

7. Any objections to the motion/application identified above:

- ☐ must be filed with the Court and served on all parties in interest by electronic or overnight mail
 day(s) prior to the scheduled hearing; or
☒ may be presented orally at the hearing.

8. ☒ Court appearances are required to prosecute the motion/application and any objections.
☐ Parties may request to appear by phone by contacting Chambers prior to the return date.

rev.2/1/16

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1(a)

CULLEN AND DYKMAN LLP

433 Hackensack Avenue

Hackensack, NJ 07601

Tel: (201) 488-1300

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David Edelberg, Esq.

dedelberg@cullenanddykman.com

Counsel to Dianna Guadagnino

In Re:

DIANNA GUADAGNINO

Debtor.

Chapter 11

Case No.: 17-12951(RG)

Judge: Rosemary Gambardella

Hearing Date: November 28, 2018
At 11:00 a.m.

**NOTICE OF MOTION OF DIANNA GUADAGNINO FOR
ENTRY OF AN ORDER PURSUANT TO 11 U.S.C §§ 105(a) AND
364(c) APPROVING POST-PETITION FINANCING, EXPUNGING
JUDGMENT LIENS AND GRANTING RELATED RELIEF**

TO:

Office of the United States Trustee One Newark Center, Suite 2100 Attn: Trustee: David Gerardi, Esq. Newark, NJ 07102 Email: David.Gerardi@usdoj.gov	Joseph J. Asterita, Esq. Bonfiglio & Asterita, LLC 66Reckless Place Red Bank, NJ 07701 Email: Joe@BALawllc.com Counsel for JJS Capital Group
Emmanuel J. Argentieri, Esq. Romano Garubo & Argentieri LLC 52 Newton Ave. PO Box 456 Woodbury, NJ 08096 Attorneys for M&T Bank Email: svirgilio@rgalegal.com	Wells Fargo Home Mortgage PO Box 10335 Des Moines, IA 50306
Powers Kim, LLC 728 Marine Hwy., Ste 200 PO Box 848 Moorestown, NJ 08057 Attorneys for US Bank National Association	Dianne Clemente 4112 Ramapo Court Riverdale, NJ 07457 Email: DianneClemente@gmail.com

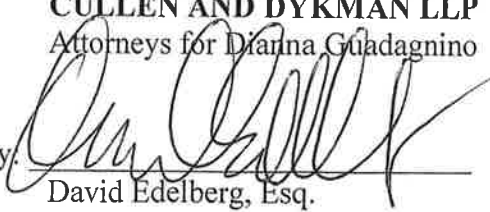
as Trustee for MASTR Asset Packed Securities Trust angela.pattison@powerskirn.com	
Denise Carlon, Esq. Brian C. Nicholas, Esq. KML Law Group, PC 216 Haddon Avenue, Suite 406 Westmont, NJ 08108 Attorneys for Bank of America, N.A. dcarlon@kmlawgroup.com bnicholas@kmlawgroup.com	Nicholas P. Edwards Shelton, Harrison & Pinson, PLLC 701 Highlander Blvd, Suite 270 Arlington, TX 76015 Attorneys for Wells Fargo Bank, N.A., as Trustee for Carrington Mortgage Loan Trust Tel: 817.522.7550 Email: Bankruptcy@shp-law.com
William J. Becket, Esq. Becket and Lee 16 General Warren Blvd. Malvern, PA 19355 Tel: 610-644-7800 Counsel for Navient	Nancy Isaacson, Esq. Greenbaum Rowe Smith & Davis, LLP PO Box 5600 Woodbridge, New Jersey 08830 Tel: 732-549-5600 Email: nisaacson@greenbaumlaw.com Counsel for Liberty Park Commons LLC
New Jersey Motor Vehicle Commission PO Box 160 Trenton, New Jersey 08666	State of New Jersey Division of Taxation Judgment Section - A PO Box 245 Trenton, NJ 08695-0245
Gurbir S. Grewal, Attorney General Office of the Attorney General RJ Hughes Justice Complex 25 Market Street, Box 080 Trenton, New Jersey 08625-0080	Vivian Martinez c/o Law office of Patrick Patel 580 Newark Avenue Ste B, Jersey City, NJ 07306 Email: pgplawnj@gmail.com
Ramanjit Chawla, D.A.G. Tax Bankruptcy Debt Recovery Section Division of Law, Richard J. Hughes Justice Complex 25 Market Street P.O. Box 106 Trenton, NJ 08625 Ramanjit.Chawla@law.njoag.gov	Jersey City Tax Collector 280 Grove Street Room 101 Jersey City, New Jersey 07302
Jai Bajrangi Invest, LLC 2449 Kennedy Blvd. Jersey City, New Jersey 07302	

PLEASE TAKE NOTICE that on November ____ 2018 at 11:00 a.m., Dianna Guadagnino, the above-captioned debtor and debtor-in-possession (the “Debtor”), by and through her undersigned counsel, Cullen and Dykman LLP, will move (the “Motion”) before the

Honorable Rosemary Gambardella, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of New Jersey (the "Bankruptcy Court"), Courtroom 3E, 50 Walnut Street, 3rd Floor, Newark, New Jersey, 07102, or as soon thereafter as counsel can be heard, for entry of an order (a) approving a post-petition secured financing; (b) expunging judgment liens, and (b) granting related relief.

PLEASE TAKE FURTHER NOTICE that responses and objections, if any, to the relief requested in the Motion shall: (i) be in writing; (ii) specify with particularity the basis of the objection; and (iii) be served upon: (1) counsel to the Debtor, Cullen and Dykman LLP, Attn: David Edelberg, Esq., 443 Hackensack Avenue, Hackensack, NJ 07601; (2) the Office of the United States Trustee for the District of New Jersey, Address: One Newark Center, Suite 2100, Newark, NJ 07102, Attn: Trustee: David Gerardi, Esq.; and (3) all parties who have filed a notice of appearance and request for service of documents, so as to be actually received by no later than November 21, 2018, 5:00 p.m., (prevailing Eastern Time) on [month] [day], 2018 (the "Objection Deadline").

Dated: Hackensack, New Jersey
November __, 2018

CULLEN AND DYKMAN LLP
Attorneys for Dianna Guadagnino
By: 
David Edelberg, Esq.
433 Hackensack Avenue
Hackensack, NJ 07601
(201) 488-1300
Counsel to Dianna Guadagnino

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1(a)

CULLEN AND DYKMAN LLP

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Hackensack, NJ 07601

Tel: (201) 488-1300

Fax: (201) 488-6541

David Edelberg, Esq.

dedelberg@cullenanddykman.com

Counsel to Dianna Guadagnino

In Re:

DIANNA GUADAGNINO,

Debtor.

Chapter 11

Case No.: 17-12951 (RG)

Judge: Rosemary Gambardella

Hearing Date: November 28, 2018
At 11:00 a.m.

**MOTION OF DIANNA GUADAGNINO FOR ENTRY OF AN ORDER
APPROVING POST-PETITION SECURED BORROWING , EXPUNGING JUDGMENT
LIENS AND GRANTING RELATED RELIEF.**

Dianna Guadagnino, the above-captioned debtor and debtor-in-possession (the “Debtor”), by and through her undersigned counsel, Cullen and Dykman LLP, hereby submits this motion (the “Motion”), pursuant to sections 105(a), 361, 362, 363, and 364(c) of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), for entry of an Order: (a) to obtain senior post-petition financing pursuant to terms of that certain \$450,000 mortgage commitment (“Loan”) entered into by and between the Debtor and Toby Mug Financing LLC (“Toby Mug Financing” or “Lender”); (b) expunging various judgment liens, and (c) granting related relief.

PRELIMINARY STATEMENT

1. As more fully set forth in the Guadagnino Certification and Loan, the Debtor has determined that a post-petition loan is beneficial in order to allow her to satisfy an existing first mortgage held by M&T Bank. Satisfying this senior mortgage will allow the Debtor the flexibility she needs as she attempts to reorganize. To that end, the Debtor attempted to find a bank that was willing to extend credit to her to refinance her mortgage on 287 Communipaw Avenue, Jersey City New Jersey ("Communipaw Avenue"). However, given that there have been two foreclosure proceedings commenced against the Debtor, it is difficult for her to obtain a loan from a bank. Toby Mug Financing has agreed to provide the Debtor with a post-petition secured loan of up to \$450,000.00 (the "Loan"). The Loan will be used to satisfy M&T Bank's first mortgage on the Communipaw Property. Pursuant to the post-petition financing, 5.5% points will accrue to the loan balance upfront and at the beginning of each new year term. Thereafter, monthly interest is calculated at 8% per annum.

2. Debtor is in need of post-petition financing to refinance the mortgage on the Communipaw Property. The Communipaw Property is a multi-family home. Currently there are two units being rented in the Communipaw Property which results in approximately \$4,650.00 of monthly rental income. Additionally, there are nine garage units, of which six are rented, and result in rental income of approximately \$1,335.00 per month. The total monthly revenue produced by the Communipaw Property is approximately \$5,985.00. Expenses on the Communipaw Property total approximately \$2,900.00 per month. Debtor believes authorization and approval of Debtor's additional post-petition financing is in the best interests of the Debtor's estate and creditors.

JURISDICTION AND VENUE

3. The United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”) has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the standing order of reference entered by the Bankruptcy Court dated July 23, 1984.

4. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

5. The statutory predicates for the relief sought herein are Sections 105(a), 362, and 364(c) of the Bankruptcy Code and Bankruptcy Rule 4001.

BACKGROUND

6. On February 16, 2017 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. Pursuant to Section 1107(a) and 1108 of the Bankruptcy Code, the Debtor remains in possession of its assets and continues to operate and manage her business as debtor-in-possession.

7. As set forth more fully in the Guadagnino Certification, the Debtor is the owner of four parcels of real property located at: (i) 104 Pine Street; (ii) 252 Suydam Street; (iii) 109 Lafayette Street; and (iv) 287 Communipaw Avenue, and thirteen (13) garages, all located in Jersey City, New Jersey (collectively the “Properties”).

8. M&T Bank holds a first mortgage with an outstanding balance of \$407,802.80 on the Communipaw Property.

9. Dianne Clemente holds a \$50,000 second mortgage on the Communipaw Property.

10. M&T Bank has voted against confirming the Chapter 11 Plan and refuses to negotiate with Debtor to refinance the mortgage on the Communipaw Property or to modify the Plan.

11. To move forward with the confirmation of the Chapter 11 Plan, the Debtor seeks to refinance the mortgage on the Communipaw Property in order to satisfy M&T Bank's interest in the property. As a result, confirmation of the Debtor's Plan will be simplified.

12. This Motion is supported by (i) the Certification of Dianna Guadagnino filed in support of the Motion (the "Guadagnino Certification"); (ii) any documentary evidence or arguments of counsel presented to the Court; and (iii) the legal arguments set forth below.

13. By this Motion, Debtor requests the following relief:

- a. An order approving the senior secured post-petition financing for up to \$450,000 to refinance the Communipaw Property;
- b. An order approving the satisfaction of M&T Bank's lien on the Communipaw Property;
- c. Granting Toby Mug Financing a first lien on the Communipaw Property to secure the Loan;
- d. Granting Toby Mug Financing a second lien on 252 Suydam Avenue, Jersey City, New Jersey 07304 (the "Suydam Property") to secure the Loan;
- e. Authorizing the Debtor to satisfy the tax sale certificate holder's claim of approximately \$3,092.58 from the Loan proceeds;
- f. Authorizing the Debtor to remit a payment of \$10,000.00 to Cullen and Dykman LLP's Trust Account for payment of fees and expenses, subject to Bankruptcy Court review and approval;
- g. Allowing the Debtor to pay all the necessary and customary expenses to effectuate the Loan, and

- h. Expunging the judgment liens held by Vivian Martinez, the New Jersey Division of Taxation and the New Jersey Motor Vehicle Commission.

SUMMARY OF MATERIAL TERMS PURSUANT TO BANKRUPTCY RULE 4001

A. Summary of Proposed Post-Petition Financing

14. As more fully set forth in the Guadagnino Certification, the Communipaw Property has a total monthly rental revenue of approximately \$5,985.00, with monthly expenses of approximately \$2,900.00. The rental income exceeds rental expenses by approximately \$3,085.00 per month. The Communipaw Property has an estimated value of \$500,000.00. As of September 10, 2018, M&T Bank holds a first mortgage lien in the amount of \$407,802.80 on the Communipaw Property. Guadagnino has determined that a post-petition secured loan is beneficial to facilitate her efforts to confirm her Plan. Toby Mug Financing has agreed to provide Debtor with post-petition financing in the amount of up to \$450,000.00. The Loan has a three (3) year term.

15. In the event of default, the Loan provides various remedies to Toby Mug Financing, including a 10% late fee on any monthly payment that is paid after the 10th day of the month when the payment is due.

16. As a condition to providing the Loan, Toby Mug Financing requires: (1) a first lien on the Communipaw Property and (2) a second lien on the Suydam Property; (3) confirmation that any leases in place in the Debtor's four properties are market related; (4) all closing costs, including Lender's legal fees, are paid by the Debtor; (5) all real estate taxes must be paid in full through year-end 2018; (6) no other liens placed on the property while the Loan is in place; (7) 5.5% points accrued to the loan balance upfront and at the beginning of each new year term. Thereafter, monthly

interest is calculated at 8% per annum; and (8)) a balloon payment due at maturity in three (3) years.

17. The Debtor believes it is necessary and reasonable in this instance to allow post-petition secured financing from Toby Mug Financing and it is believed that the benefit to the Debtor greatly outweighs any potential harm to any other creditor or the estate. By allowing the Debtor to obtain post-petition secured financing, Debtor will be able to satisfy M&T Bank's mortgage on the property. The refinancing of M&T's first mortgage will simplify Confirmation of the Debtor's Plan.

18. Other liens on the Communipaw Property consist of: (i) Dianne Clemente has a second mortgage in the amount of \$50,000.00; (ii) a judgment entered on April 27, 2015 in favor of Vivian Martinez in the amount of \$67,924.63, J-064343; (iii) a judgment entered on August 20, 2015 in favor of the New Jersey Division of Taxation in the amount of \$3,453.52, DJ-142657-15, (iv) a judgment entered on January 18, 2017 in favor of the New Jersey Division of Motor Vehicles in the amount of \$250.00, DJ-005675-17, and (vi) a tax sale certificate held by Jai Bajrangi Invest LLC in the amount of \$3,092.58.

19. Ms. Clemente has agreed to discharge her mortgage on the Communipaw Property, and the Discharge of Mortgage is expected to be signed prior to the hearing on this motion.

20. Upon information and belief, the judgment holders have not levied upon the Communipaw Property, and accordingly, the Debtor seeks the entry of an order expunging such liens. The Tax Sale Certificate will be paid from the Loan proceeds.

B. Request for Approval of Post-Petition Financing

21. Section 364 of the Bankruptcy Code distinguishes among (a) obtaining unsecured credit in the ordinary course of business, (b) obtaining unsecured credit outside of the ordinary course of business, and (c) obtaining credit with specialized priority or with security.

22. Section 364(c) of the Bankruptcy Code provides:

if the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt—

(1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;

(2) secured by a lien on property of the estate that is not otherwise subject to a lien; or

(3) secured by a junior lien on property of the estate that is subject to a lien.

23. To satisfy the requirements of section 364(c) of the Bankruptcy Code, a debtor need only demonstrate “by a good faith effort that credit was not available” to the debtor on an unsecured or administrative expense basis. *Bray v. Shenandoah Fed. Savs. & Loan Ass’n (In re Snowshoe Co.)*, 789 F.2d 1085, 1088 (4th Cir. 1986). “The statute imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable.” *Id.* When few lenders are likely to be able and willing to extend the necessary credit to a debtor, “it would be unrealistic and unnecessary to require [the debtor] to conduct such an exhaustive search for financing.” *In re Sky Valley, Inc.*, 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), *aff’d sub nom., Anchor Savs. Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 120 n. 4 (N.D. Ga. 1989); *see also Ames Dep’t Stores*, 115 B.R. at 40 (approving financing facility and holding that the debtor made reasonable efforts to satisfy the standards of section 364(c) where it approached four lending institutions, was rejected by two, and selected the most favorable of the two offers it received).

24. Section 364 of the Bankruptcy Code authorizes a debtor to obtain secured or super-priority financing under certain circumstances. Provided that an agreement to obtain secured credit does not run afoul of the provisions of, and policies underlying, the Bankruptcy Code, courts grant

a debtor considerable deference in acting in accordance with its sound business judgment in obtaining such credit. *See, e.g., Trans World Airlines, Inc. v. Travellers Int'l AG (In re Trans World Airlines, Inc.)*, 163 B.R. 964, 974 (Bankr. D. Del. 1994) (approving post-petition loan and receivables facility because such facility “reflect[ed] sound and prudent business judgment.”); *In re Barbara K. Enters., Inc.*, Case No. 08-11474, 2008 WL 2439649, at *14 (Bankr. S.D.N.Y. June 16, 2008) (explaining that courts defer to a debtor’s business judgment “so long as a request for financing does not ‘leverage the bankruptcy process’ and unfairly cede control of the reorganization to one party in interest.”); *In re Ames Dep’t Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (“[c]ases consistently reflect that the court’s discretion under section 364 [of the Bankruptcy Code] is to be utilized on grounds that permit [a debtor’s] reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest.”); *In re Farmland Indus., Inc.*, 294 B.R. 855, 881 (Bankr. W.D. Mo. 2003) (noting that approval of post-petition financing requires, inter alia, an exercise of “sound and reasonable business judgment.”); *see also Bray v. Shenandoah Fed. Sav. & Loan Assoc. (In re Snowshoe Co.)*, 789 F.2d 1085, 1088 (4th Cir. 1986) (stating that “[t]he statute imposes no duty to seek from every possible lender before concluding that such credit is unavailable”).

25. Moreover, where few lenders likely can or will extend the necessary credit to a debtor, “it would be unrealistic and unnecessary to require [the debtor] to conduct such an exhaustive search for financing.” *In re Sky Valley, Inc.*, 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), *aff’d sub nom., Anchor Sav. Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 120 n.4 (N.D. Ga. 1989); *see also In re Garland Corp.*, 6 B.R. 456, 461 (B.A.P. 1st Cir. 1980) (secured credit under section 364(c)(2) authorized, after notice and a hearing, upon showing that unsecured credit unobtainable);

In re Stanley Hotel, Inc., 15 B.R. 660, 663 (D. Colo. 1981) (bankruptcy court's finding that two national banks refused to grant unsecured loans was sufficient to support conclusion that section 364 requirement was met); *Ames*, 115 B.R. at 37-39 (debtor must show that it made reasonable efforts to seek other sources of financing under section 364(a) and (b)).

26. As noted in the Guadagnino Certification, the Debtor is unable to obtain acceptable post-petition financing from sources alternative to Toby Mug Financing.

RELIEF REQUESTED

27. By this Motion, the Debtor respectfully seeks entry of an order, pursuant to Bankruptcy Code §§ 105(a), 361, 362, 363, and 364(c) and Bankruptcy Rules 4001 and 9014:

- a. an order approving the senior secured post-petition financing for \$450,000 to refinance the Communipaw Property;
- b. an order approving the satisfaction of M&T Bank's lien on the Communipaw Property;
- c. Allowing Toby Mug Financing LLC to acquire a first lien on the Communipaw Property;
- d. Allowing Toby Mug Financing LLC to acquire a second lien on 252 Suydam Avenue, Jersey City, New Jersey 07304 (the "Suydam Property");
- e. Authorizing the Debtor to satisfy the tax sale certificate holder's claim of approximately \$3,092.58 from the Loan proceeds;
- f. Authorizing the Debtor to remit a payment of \$10,000.00 to Cullen and Dykman LLP's Trust Account for payment of fees and expenses, subject to Bankruptcy Court review and approval;

- g. expunge the judgment liens held by Vivian Martinez, the New Jersey Division of Taxation and the New Jersey Motor Vehicle Commission.
- h. allowing Debtor to pay all the necessary and customary expenses to effectuate the Loan;
- i. approving the form and manner of service of notice of this Motion; and
- j. granting such other and further relief as the Court deems is just and proper.

28. Approval of the post-petition Loan is in the best interests of the Debtor's estate and creditors since the Loan will allow Debtor to move forward with confirming her Chapter 11 Plan. Absent the authority for the post-petition financing, the Debtor may be unable to successfully confirm her Plan pursuant to Section 1129(b) of the Code. and preserve her assets and property.

29. The Debtor's efforts to borrow money from other lenders on an unsecured, administrative claim basis were unsuccessful. Given the Debtor's financial position, the Debtor determined that a more exhaustive search would be futile, and that the Loan requested herein is in the best interests of its estate. Accordingly, the Loan should be approved.

ARGUMENT

A. Request for Approval of Post-Petition Financing and Senior Lien

30. The Debtor's execution of the Loan is an exercise of her sound business judgment that warrants approval by the Court. The Debtor has undertaken an analysis of M&T's objection to the Plan. Based on such analysis, the Debtor determined that she needs to refinance the Communipaw Property in order to facilitate approval of the Plan. The Debtor anticipates she will need \$450,000 in post-petition financing to refinance M&T's mortgage. Accordingly, the Debtor began searching for a lender to provide an unsecured loan, and ultimately failed. Debtor and Toby Mug Financing LLC began negotiating. After a series of good faith, arm's-length negotiations,

the Debtor and Toby Mug Financing LLC agreed to the material terms of the Loan. Based on the advice of her professionals, the Debtor has determined in her sound business judgment that the terms of the Loan provides a greater amount of financing on more favorable terms than any other reasonably available alternative. The Debtor's advisors assisted the Debtor in ascertaining whether alternative financing is available and have assisted the Debtor in negotiations to obtain the best terms available.

31. Specifically, the proceeds from the Loan will provide the Debtor with immediate ability to satisfy M&T Bank's first mortgage on the Communipaw Property and allow Debtor to move forward with confirming her Chapter 11. Overcoming M&T Bank's objection will play an integral role in allowing Debtor to reorganize.

32. In determining whether the terms of post-petition financing are fair and reasonable, courts consider the relative circumstances of both the debtor and the potential lender. *In re Farmland Indus., Inc.*, 294 B.R. 855, 886 (Bankr. W.D. Mo. 2003). As set forth above, the Debtor has a significant need for refinancing, and, after Debtor's searches failed to yield more conventional financing, Toby Mug Financing LLC is the only entity willing to provide that assistance. No prepetition secured creditor will be impaired by the granting of post-petition secured financing. All prepetition secured creditors upon the Communipaw Property will either be paid, have their judgment liens expunged, or voluntarily discharge their second mortgage. The first and sole mortgage holder on the Suydam Property, Wells Fargo Bank, as Trustee for Carrington Mortgage Loan Trust Series 2006-FRE 1 Asset Backed BASSP Thru Certificates will retain its first mortgage position upon such property. Allowing Debtor to refinance the first mortgage on the Communipaw Property will be in the best interest of the debtor's estate and to

other creditors because it will allow the Debtor to preserve her equity in the Properties and allow her to continue to generate rental income which is used to pay her creditors.

NOTICE

1. Notice of this Motion has been given to (a) the Office of the United States Trustee for the District of New Jersey, One Newark Center, Suite 2100, Newark, NJ 07102, Attn: David Gerardi, Esq.; (b) all parties who have filed a notice of appearance and request for service of documents in this chapter 11 case; (c) all mortgage and lienholders upon the Communipaw Property and Suydam Property.

2. No previous application for the relief sought herein has been made to this or any other Court.

CONCLUSION

WHEREFORE, the Debtor respectfully requests that the Court enter the Order granting the relief requested herein, together with such other and further relief as the Court deems just and proper.

Dated: November __, 2018

Hackensack, New Jersey

Respectfully submitted,

CULLEN AND DYKMAN LLP

By: 

David Edelberg, Esq.
433 Hackensack Avenue
Hackensack, NJ 07601
(201) 488-1300

Counsel to Dianna Guadagnino

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1(a)

CULLEN AND DYKMAN LLP
433 Hackensack Avenue
Hackensack, NJ 07601
Tel: (201) 488-1300
Fax: (201) 488-6541
David Edelberg, Esq.
dedelberg@cullenanddykman.com
Counsel to Dianna Guadagnino

In Re:

DIANNA GUADAGNINO

Debtor.

Chapter 11

Case No.: 17-12951(RG)

Judge: Rosemary Gambardella

Hearing Date: November 28, 2018
At 11:00 a.m.

**CERTIFICATION OF DIANNA GUADAGNINO IN SUPPORT
OF DEBTOR'S MOTION FOR ENTRY OF AN ORDER APPROVING
POST-PETITION SECURED FINANCING AND GRANTING RELATED
RELIEF**

Dianna Guadagnino, being of full age, hereby certifies as follows:

1. My name is Dianna Guadagnino and I am the Debtor in the above captioned matter ("Debtor"). As such, I am fully familiar with my assets, liabilities, financial affairs, and more importantly, the proposed refinancing of the Community Avenue property.
2. I am the owner of four parcels of real property located at: (i) 194 Pine Street; (ii) 252 Suydam Street; (iii) 104 Lafayette Street; and (iv) 287 Communipaw Avenue, and fourteen (14) garages, all located in Jersey City, New Jersey (collectively the "Properties").
3. I am an individual who resides at the multi-family home located at 287

Communipaw Avenue, Jersey City, New Jersey 07304 (the “Communipaw Property”). In recent years, I have also resided in Watford City, North Dakota.

4. On February 16, 2017 (the “Petition Date”), I filed a voluntary petition for relief pursuant to Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) in order to stay a scheduled sheriff’s sale of the Communipaw Property. Since then, I have remained in possession of the Properties and continue to manage the Properties.

5. Except as otherwise indicated, all facts set forth in this Certification are personal knowledge, my review of relevant documents, or my opinion based upon experience, knowledge, and information concerning the Properties. If called upon to testify, I could and would testify competently to the facts set forth herein, unless otherwise noted. I am authorized to submit this Certification.

6. I own and maintain the Properties in Jersey City, New Jersey. The Properties are rented and generate regular monthly income in the projected amount of approximately \$16,000.00.

7. The estimated fair market values of the Properties, the first mortgage holders and the estimated balances due consist of the following¹:

<u>Property</u>	<u>Estimated FMB Value</u>	<u>Lien Holder and Balance Due</u>
287 Communipaw Avenue Property (including 9 garages)	\$500,000	M&T Bank, Successor by merger to Hudson City Savings Bank - \$407,802.80 ² .
287 Communipaw Avenue Property	\$50,000	Dianne Clemente, 2nd mortgage - <u>\$50,000.</u>
252 Suydam Street Property	\$500,000	Wells Fargo Bank, as Trustee for Carrington Mortgage Loan Trust Series 2006-FRE 1 Asset Backed BASSP Thru

¹ Taken from the Disclosure Statement, as of June 30, 2018

² As per ballot filed by M&T Bank on September 20, 2018.

		Certificates - \$522,826.38 (as of May 2, 2018).
104 Lafayette Street Property	\$420,000	Wells Fargo Bank - <u>\$312,123.05</u>
194 Pine Street Property	\$420,000	Bank of America - \$383,710.68
TOTAL	\$1,890,000	\$1,676,462.91

8. The Communipaw Property has two units available for rent and nine garages. The approximate monthly revenue generated by the Communipaw Property is \$5,985.00. The approximate monthly expenses, including taxes, current mortgage principle and interest payments, maintenance and garbage collection, electric and gas, and water, generated by the Communipaw Property is approximately \$2,900.00. The revenues generated by the Communipaw Property exceed expenses by approximately \$3,085.00 per month.

9. The 252 Suydam Avenue, Jersey City, New Jersey 07304 property (the "Suydam Property") has two units rented and five garages rented. The total approximate monthly revenue generated by the Suydam Property is \$5,450.00. The approximately monthly expenses, including taxes, insurance, current mortgage principle and interest, maintenance and garbage, electric and gas, and water, generated by the Suydam Property is approximately \$2,776.40. The revenues generated by the Suydam Property exceed expenses by approximately \$2,673.60.00 per month.

10. M&T Bank holds a first mortgage on the Communipaw Property.

11. An individual named Dianne Clemente has a second junior mortgage in the amount of approximately \$50,000.00 on the Communipaw Property.

12. M&T Bank has been receiving monthly payments upon its first mortgage for the majority of the pendency of my Chapter 11 case.

13. Based upon the foregoing, the Communipaw Property and Suydam Property generate sufficient income to satisfy: (i) real estate taxes as they become due; (ii) insurance premiums; (iii) maintenance of the premises, and (iv) payments to each of the first mortgage holders.

14. All of the Properties are currently protected by insurance.

15. I determined that, due to M&T's opposition to my Plan of Reorganization, and refusal to negotiate with respect thereto, that refinancing M&T's mortgage would likely simplify my efforts to confirm my Plan.

16. Consequently, I searched for a commercial lender who was willing to extend a loan on an unsecured basis. However, with at least two foreclosures pending at the time of my Chapter 11 filing, I knew from my experiences that I was unlikely to obtain conventional financing at such a favorable interest rate. This was confirmed when I was denied credit by Stockman Bank.

17. Unable to find a lender willing to provide an unsecured loan, I was able to find Toby Mug Financing LLC, who was willing to provide a loan on a secured basis.

18. On October 22, 2018, Toby Mug Financing LLC offered a \$450,000 mortgage commitment (the "Loan") to refinance the Communipaw Property. The Loan term sheet is annexed hereto as Exhibit "A".

19. The monthly payments under the Loan, which are subject to change pending the date of Court approval, is on [DATE] [AMOUNT]. See Loan.

20. The terms of the Loan are as follows:

- a. The Loan places a first lien on the Communipaw Premises.
- b. The Loan places a second lien on 252 Suydam Avenue, Jersey City, New Jersey property.

- c. All real estate taxes must be paid in full through year-end 2018. No other liens can be placed on the property while this loan is in place.
- d. Confirmation that any leases in place are market related (i.e., not below market rents set over long periods of times).
- e. All closings costs, including Lender's Legal fees, to be paid to by Borrower.
- f. 3-Year Term and prepayment penalty of 5% of outstanding balance only if prepaid in Year 1. No prepayment penalty thereafter.
- g. 5.5% points accrued to loan balance upfront and at beginning of each new year term. Thereafter monthly interest is calculated at 8% per annum. Cash Payment minimum is \$1,000 per month and the remaining interest due will be accrued to the loan balance. Borrower has the right to pay as much as the monthly interest due each month in year one and not incur prepayment penalties. Prepayments of any amounts are allowed after Year 1.
- h. Balloon payment due at maturity.
- i. 10% late fee on any monthly payment paid after the 10th of the month when due.
- j. The Post-Petition secured financing is essential to the continued operations of the Communipaw Property and is in my best interest, as the Debtor, and my estate.

21. I certify under penalty of perjury that the above comments are true to the best of my knowledge, information and belief.



Dianna Guadagnino

Dated: November _13____, 2018

EXHIBIT A

Toby Mug Financing LLC
P. O. Box 30298
Fort Lauderdale, FL 33303

October 22, 2018

To Whom It May Concern:

Re: Mortgage Commitment for 287 Communipaw Ave, Jersey City, NJ 07304

Toby Mug Financing LLC is pleased to offer a **\$450,000** mortgage commitment to refinance the subject property under the following terms and conditions:

- First lien on 287 Communipaw Ave, Jersey City.
- All real estate taxes must be paid in full through year-end 2018. No other liens can be placed on the property while this loan is in place.
- Confirmation that any leases in place are market related (i.e., not below market rents set over long period of times).
- Second lien on 252 Suydam Ave, Jersey City.
- All closing costs, including Lender's Legal fees, to be paid by Borrower.
- 3-Year Term and prepayment penalty of 5% of outstanding balance only if prepaid in Year 1. No prepayment penalty thereafter.
- 5.5% points accrued to loan balance upfront and at beginning of each new year term. Thereafter monthly interest is calculated at 8% per annum. Cash Payment minimum is \$1,000 per month and the remaining interest due will be accrued to the loan balance. Borrower has the right to pay as much as the monthly interest due each month in year one and not incur prepayment penalties. Prepayments of any amounts are allowed after Year 1.
- Balloon payment due at maturity.
- 10% late fee on any monthly payment paid after the 10th of the month when due.
- Representative amortization schedule is attached. Will be tweaked once actual closing date is set.

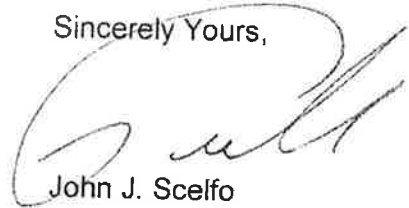
A handwritten signature in dark ink, appearing to be a stylized 'P' followed by a surname, located in the bottom right corner of the document.

I understand you require Court approval for this loan and that if approved, this property will no longer be affected by your Bankruptcy filing. As soon as that is done, I will present the approved terms to a lawyer to prepare all documentation. At that time, I will request \$2,000 toward closing costs which the Borrower can refund herself from the loan proceeds at closing. The reason for this is so that I don't start incurring legal fees then find out that you do not proceed with the loan.

John J Scelfo
Toby Mug Financing LLC
P. O. Box 30298
Fort Lauderdale, FL 33303
Cell: 917-951-3968
Email: scelfo_john@yahoo.com

Please contact me if there are any questions. Thank you.

Sincerely Yours,



John J. Scelfo
Principal
Tel: 917-951-3968
Email: jjscelfo@jjscapitalgroup.com



2018 - 2021 Loan: 287 Communipaw Ave, Jersey City, N.J.

PAYMENT DATE	BEGINNING BALANCE	PRINCIPAL & INTEREST	INTEREST	(365 Day Basis.) (if after 10th)	Default Rate of 18%	Per annum Int & PENALTIES	YEAR
		PAYMENT	CHARGE	PRINCIPAL REPAY.	10% LATE PENALTIES	ENDING BALANCE	
11/15/18	\$0.00	(\$450,000.00)	\$24,750.00	(\$474,750.00)		\$474,750.00	
12/01/18	\$474,750.00	\$0.00	\$1,664.88	(\$1,664.88)		\$476,414.88	\$26,414.88 2018
01/01/19	\$476,414.88	\$1,000.00	\$3,176.10	(\$2,176.10)		\$478,590.98	
02/01/19	\$478,590.98	\$1,000.00	\$3,190.61	(\$2,190.61)		\$480,781.58	
03/01/19	\$480,781.58	\$1,000.00	\$3,205.21	(\$2,205.21)		\$482,986.79	
04/01/19	\$482,986.79	\$1,000.00	\$3,219.91	(\$2,219.91)		\$485,206.70	
05/01/19	\$485,206.70	\$1,000.00	\$3,234.71	(\$2,234.71)		\$487,441.42	
06/01/19	\$487,441.42	\$1,000.00	\$3,249.61	(\$2,249.61)		\$489,691.03	
07/01/19	\$489,691.03	\$1,000.00	\$3,264.61	(\$2,264.61)		\$491,955.63	
08/01/19	\$491,955.63	\$1,000.00	\$3,279.70	(\$2,279.70)		\$494,235.34	
09/01/19	\$494,235.34	\$1,000.00	\$3,294.90	(\$2,294.90)		\$496,530.24	
10/01/19	\$496,530.24	\$1,000.00	\$3,310.20	(\$2,310.20)		\$498,840.44	
11/01/19	\$498,840.44	\$1,000.00	\$3,325.60	(\$2,325.60)		\$501,166.04	
12/01/19	\$501,166.04	\$1,000.00	\$30,905.24	(\$29,905.24)		\$531,071.28	2019
01/01/20	\$531,071.28	\$1,000.00	\$3,540.48	(\$2,540.48)		\$533,611.76	\$66,656.41
02/01/20	\$533,611.76	\$1,000.00	\$3,557.41	(\$2,557.41)		\$536,169.17	
03/01/20	\$536,169.17	\$1,000.00	\$3,574.46	(\$2,574.46)		\$538,743.63	
04/01/20	\$538,743.63	\$1,000.00	\$3,591.62	(\$2,591.62)		\$541,335.26	
05/01/20	\$541,335.26	\$1,000.00	\$3,608.90	(\$2,608.90)		\$543,944.16	
06/01/20	\$543,944.16	\$1,000.00	\$3,626.29	(\$2,626.29)		\$546,570.45	
07/01/20	\$546,570.45	\$1,000.00	\$3,643.80	(\$2,643.80)		\$549,214.25	
08/01/20	\$549,214.25	\$1,000.00	\$3,661.43	(\$2,661.43)		\$551,875.68	
09/01/20	\$551,875.68	\$1,000.00	\$3,679.17	(\$2,679.17)		\$554,554.85	
10/01/20	\$554,554.85	\$1,000.00	\$3,697.03	(\$2,697.03)		\$557,251.89	
11/01/20	\$557,251.89	\$1,000.00	\$3,715.01	(\$2,715.01)		\$559,966.90	
12/01/20	\$559,966.90	\$1,000.00	\$34,531.29	(\$33,531.29)		\$593,498.19	\$74,426.91 2020
01/01/21	\$593,498.19	\$1,000.00	\$3,956.65	(\$2,956.65)		\$596,454.85	
02/01/21	\$596,454.85	\$1,000.00	\$3,976.37	(\$2,976.37)		\$599,431.21	
03/01/21	\$599,431.21	\$1,000.00	\$3,996.21	(\$2,996.21)		\$602,427.42	
04/01/21	\$602,427.42	\$1,000.00	\$4,016.18	(\$3,016.18)		\$605,443.60	
05/01/21	\$605,443.60	\$1,000.00	\$4,036.29	(\$3,036.29)		\$608,479.89	
06/01/21	\$608,479.89	\$1,000.00	\$4,056.53	(\$3,056.53)		\$611,536.43	
07/01/21	\$611,536.43	\$1,000.00	\$4,076.91	(\$3,076.91)		\$614,613.33	
08/01/21	\$614,613.33	\$1,000.00	\$4,097.42	(\$3,097.42)		\$617,710.76	
09/01/21	\$617,710.76	\$1,000.00	\$4,118.07	(\$3,118.07)		\$620,828.83	
10/01/21	\$620,828.83	\$1,000.00	\$4,138.86	(\$3,138.86)		\$623,967.69	
11/01/21	\$623,967.69	\$1,000.00	\$4,159.78	(\$3,159.78)		\$627,127.47	
12/01/21	\$627,127.47	\$1,000.00	\$4,180.85	(\$3,180.85)		\$630,308.32	\$48,810.13 2021

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1(a)

CULLEN AND DYKMAN LLP
433 Hackensack Avenue
Hackensack, NJ 07601
Tel: (201) 488-1300
Fax: (201) 488-6541
David Edelberg, Esq.
dedelberg@cullenanddykman.com
Counsel to Dianna Guadagnino

In Re:

DIANNA GUADAGNINO

Debtor.

Case No.: 17-12951(RG)

Chapter: 11

Hearing Date: Nov. 28, 2018
at 11:00 am

Judge: Honorable Rosemary
Gambardella

ORDER APPROVING POST PETITION FINANCING

The relief set forth on the following pages, numbered two (2) through three (3) is
ORDERED.

THIS MATTER having come before the court on the application of Dianne Guadagnino, the debtor in the above captioned matter ("Debtor"), through her counsel, Cullen and Dykman LLP, seeking the entry of an Order pursuant to Section 364 of the Bankruptcy Code approving Post Petition Post-Petition Financing regarding the real property located at 287 Communipaw Avenue, Jersey City, New Jersey ("Communipaw Property"), expunging various judgment liens upon the Communipaw Property, and granting related relief, it appearing that the proposed financing will simply replace the existing first mortgage of M&T Bank upon the Communipaw Property, it appearing that Dianne Clemente, the second mortgage holder upon the Communipaw Property, has agreed to discharge her mortgage, it appearing that there are three (3) judgments entered in favor of Vivian Martinez, the New Jersey Division of Taxation and the New Jersey Motor Vehicle Commission, it appearing that the foregoing judgment holders have not levied upon the Communipaw Property, and consequently, their respective judgment liens are avoidable pursuant to Section 544(a), and the Court having considered the Debtor's motion and any opposition thereto, and good and sufficient cause appearing therefrom for the entry of this order, it is hereby

ORDERED, the Debtor is authorized pursuant to Sections 364(c) and (d) of the Bankruptcy Code to obtain financing from Toby Mug Financing LLC ("Toby") in the amount of approximately \$415,000.00 for purposes of satisfying M&T Bank's first mortgage upon the Communipaw Property and satisfying miscellaneous costs associated therewith; and it is further

Caption of Order: **ORDER APPROVING POST PETITION FINANCING**

ORDERED that Toby's foregoing financing is hereby granted a first mortgage to secured its loan upon the Communipaw Property in connection with the foregoing financing; and a second mortgage upon the Debtor's real property located at 252 Suydam Street, Jersey City, New Jersey, and it is further

ORDERED, that the Debtor is authorized to execute all documents, remit all ordinary and necessary filing fees and costs, and take all actions reasonably required in order to consummate the foregoing financing, and it is further

ORDERED, the second mortgage held by Dianne Clemente upon the Communipaw Property is hereby expunged, and it is further

ORDERED, the following judgment liens are hereby expunged: (i) judgment entered on April 27, 2015 in favor of Vivian Martinez in the amount of \$67,924.63, J-064343; (ii) judgment entered on August 20, 2015 in favor of the New Jersey Division of Taxation in the amount of \$3,453.52, DJ-142657-15, and (iii) judgment entered on January 18, 2017 in favor of the New Jersey Division of Motor Vehicles in the amount of \$250.00, DJ-005675-17, and it is further

ORDERED that the 14 day stay of this order pursuant to Fed. R. Bankr. P. 6004(h) is waived, and it is further

ORDERED, that the Debtor will serve a copy of this Order by regular mail within five (5) days upon the United States Trustee, M&T Bank, Dianne Clemente, the City of Jersey City, Vivian Martinez, the New Jersey Division of Motor Vehicles, the New Jersey Division of Taxation, and all parties that have filed a notice of appearance in this matter.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1(a)

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Counsel to Dianna Guadagnino

In Re:

DIANNA GUADAGNINO,

Debtor.

Chapter 11

Case No.: 17-12951(RG)

**APPLICATION FOR AN ORDER SHORTENING TIME PERIOD REGARDING
APPLICATION FOR ENTRY OF AN ORDER: (i) AUTHORIZING POST-PETITION
FINANCING; (ii) EXPUNGING VARIOUS JUDGMENT LIENS, AND (iii) GRANTING
RELATED RELIEF**

TO: Honorable Rosemary Gambardella, USBJ:

Dianna Guadagnino, through her undersigned counsel, submits this application for an order shortening time and respectfully submits as follows:

1. Dianna Guadagnino is the Chapter 11 debtor in the above captioned matter. Ms. Guadagnino has a hearing to confirm her Plan of Reorganization ("Plan") scheduled on November 28, 2018 at 11:00 a.m.

2. In order to facilitate confirmation of the Plan, Ms. Guadagnino submits this application pursuant to Section 105 of the Bankruptcy Code and Rules 2002(m) and 9006(c)(1) and (d) of the Federal Rules of Bankruptcy Procedure seeking the entry of an Order scheduling an expedited hearing on Ms. Guadagnino's motion ("Application") seeking the entry of an Order: (i) authorizing the Debtor to obtain post-petition financing in order to refinance M&T Bank's first

mortgage upon 287 Communipaw Avenue, Jersey City, New Jersey (the "Communipaw Property"); (ii) expunging various judgment liens upon the Communipaw Property; and (iii) granting related relief. The Application is submitted simultaneously herewith.

3. As set forth in the Application, M&T Bank opposes confirmation of the Plan, and is unwilling to negotiate with the Debtor in this regard. Consequently, refinancing M&T Bank's first mortgage upon the Communipaw Property is expected to facilitate confirmation of the Plan.

4. Therefore, Ms. Guadagnino respectfully requests that this Court schedule an expedited hearing on the Application on the same date as the hearing to confirm the Plan (currently November 28, 2018).

APPLICABLE LAW

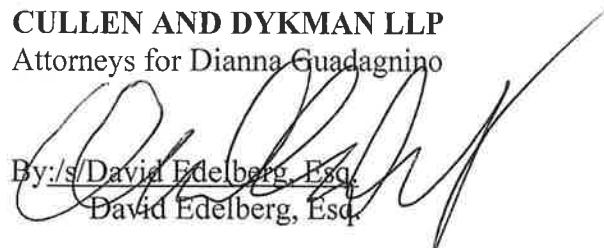
5. As the Court is aware, pursuant to Local Bankruptcy Rule 9013-2(a)(1) a motion ordinarily must be filed and served not later than 21 days prior to the hearing date. However, Local Rule 9013-2(c) authorizes the submission of an application for an order shortening time.

6. In addition, Bankruptcy Rule 9006(c)(1) authorizes this Court, in its discretion, to reduce the required notice periods for cause shown, which Ms. Guadagnino submits is demonstrated herein and in the Application. Moreover, Bankruptcy Rule 2002(m) authorizes the Court to enter orders designating the form and manner in which notices shall be sent.

WHEREFORE, Ms. Guadagnino respectfully requests the entry of an order scheduling an expedited hearing on the Application on the same date as the hearing upon confirmation of the Plan.

CULLEN AND DYKMAN LLP
Attorneys for Dianna Guadagnino

Dated: November __, 2018


By: s/David Edelberg, Esq.
David Edelberg, Esq.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

CULLEN AND DYKMAN LLP
433 Hackensack Avenue
Hackensack, NJ 07601
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(201) 488-6541 (Fax)
David Edelberg, Esq.
Counsel to Dianna Guadagnino

In Re:

DIANNA GUADAGNINO,

Debtor.

Case No.: 17-12951 (RG)

Chapter: 11

Judge: Rosemary Gambardella

**ORDER SHORTENING TIME PERIOD FOR NOTICE,
SETTING HEARING AND LIMITING NOTICE**

The relief set forth on the following pages, numbered two (2) and three (3) is hereby **ORDERED**.

After review of the application of Dianna Guadagnino for the reduction of time for a hearing on Motion to Approve Post-Petition Financing, Expunge of Judgment Liens and granting Related Relief under Fed. R. Bankr. P. 9006(c)(1), it is

ORDERED as follows:

1. A hearing will be conducted on the matter on November at p.m. in the United States Bankruptcy Court, 50 Walnut Street, Newark, New Jersey, Courtroom No. 3E.

2. The Applicant must serve a copy of this Order, and all related documents, on the following parties: The United States Trustee, all Mortgage and Lien Holders upon the Affected Properties, and all Parties that have filed a Notice of Appearance herein.

by ☐ each, ☐ any of the following methods selected by the Court:

☐ fax, ☐ overnight mail, ☐ regular mail, ☐ email, ☐ hand delivery.

3. The Applicant must also serve a copy of this Order, and all related documents, on the following parties:

by ☐ each, ☐ any of the following methods selected by the Court:

☐ fax, ☐ overnight mail, ☐ regular mail, ☐ email, ☐ hand delivery.

4. Service must be made:

☐ on the same day as the date of this order, or

☐ within _____ day(s) of the date of this Order.

5. Notice by telephone:

☐ is not required

☐ must be provided to _____

☐ on the same day as the date of this Order, or

☐ within _____ day(s) of the date of this Order.

6. A *Certification of Service* must be filed prior to the hearing date.

7. Any objections to the motion/application identified above:

☐ must be filed with the Court and served on all parties in interest by electronic or overnight mail _____ day(s) prior to the scheduled hearing; or

☐ may be presented orally at the hearing.

8. ☐ Court appearances are required to prosecute the motion/application and any objections.

☐ Parties may request to appear by phone by contacting Chambers prior to the return date.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1(a)

CULLEN AND DYKMAN LLP

433 Hackensack Avenue

Hackensack, NJ 07601

(201) 488-1300 (Tel)

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David Edelberg, Esq.

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Counsel to Dianna Guadagnino

In Re:

DIANNA GUADAGNINO

Debtor.

Case No.: 17-12951(RG)

Chapter: 11

Hearing Date: Nov. 28, 2018 at 11:00 a.m.

Judge: Honorable Rosemary Gambardella

CERTIFICATION OF SERVICE

1. I, Heidy Quintero:

☐ represent _____ in this matter.

☒ am the secretary/paralegal for David Edelberg, who represents Dianna Guadagnino in this matter.

☐ am the _____ in this case and am representing myself.

2. On November 14, 2018, I sent a copy of the following pleadings and/or documents to the parties listed in the chart below in the manner set forth below.

a) Notice of Motion to Approve Post-Petition Secured Loan;

b) Motion in Support of Debtor's Motion for Entry of an Order Approving Post-Petition Secured Financing;

- c) Supporting Certification of Diana Guadagnino in Support of Debtor's Motion for Entry of an Order Approving Post-Petition Secured Financing;
- d) Proposed Order Approving Debtor's Motion for Post-Petition Secured Financing; and
- e) This Certification of Service.

I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Date: November ¹⁴_{th}, 2018


Heidy Quintero

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
Office of the United States Trustee One Newark Center, Suite 2100 Attn: Trustee: David Gerardi, Esq. Newark, NJ 07102 Email: David.Gerardi@usdoj.gov	United States Trustee	<input checked="" type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input checked="" type="checkbox"/> Other - ECF <small>(As authorized by the Court or by rule. Cite the rule if applicable.)</small>
Joseph J. Asterita, Esq. Bonfiglio & Asterita, LLC 66 Reckless Place Red Bank, NJ 07701 Email: Joe@BALawllc.com	Counsel for JJS Capital Group	<input checked="" type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF <small>(As authorized by the Court or by rule. Cite the rule if applicable.)</small>
Emmanuel J. Argentieri, Esq. Romano Garubo & Argentieri LLC 52 Newton Ave. PO Box 456 Woodbury, NJ 08096 Attorneys for M&T Bank Email: svirgilio@rgalegal.com	Attorneys for M&T Bank	<input checked="" type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input checked="" type="checkbox"/> Other - ECF <small>(As authorized by the Court or by rule. Cite the rule if applicable.)</small>
Wells Fargo Home Mortgage PO Box 10335 Des Moines, IA 50306	Secured Creditor	<input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF <small>(As authorized by the Court or by rule. Cite the rule if applicable.)</small>

Powers Kirn, LLC 728 Marine Hwy., Ste 200 PO Box 848 Moorestown, NJ 08057 Email: angela.pattison@powerskirn.com	Attorneys for US Bank National Association as Trustee for MASTR Asset Packed Securities Trust	<input checked="" type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input checked="" type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
Dianne Clemente 4112 Ramapo Court Riverdale, NJ 07457 Email: diannecllemente@gmail.com	Secured Creditor	<input checked="" type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
Denise Carlon, Esq. Brian C. Nicholas, Esq. KML Law Group, PC 216 Haddon Avenue, Suite 406 Westmont, NJ 08108 Email: dcarlon@kmlawgroup.com Email: bnicholas@kmlawgroup.com	Attorneys for Bank of America, N.A.	<input checked="" type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input checked="" type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
Nicholas P. Edwards Shelton, Harrison & Pinson, PLLC 701 Highlander Blvd, Suite 270 Arlington, TX 76015 Tel: 817.522.7550 Email: Bankruptcy@shp-law.com	Attorneys for Wells Fargo Bank, N.A., as Trustee for Carrington Mortgage Loan Trust	<input checked="" type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input checked="" type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
William J. Becket, Esq. Becket and Lee 16 General Warren Blvd. Malvern, PA 19355 Tel: 610-644-7800	Attorneys For Navient	<input checked="" type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input checked="" type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
Nancy Isaacson, Esq. Greenbaum Rowe Smith & Davis, LLP PO Box 5600 Woodbridge, New Jersey 08830 Tel: 732-549-5600 Email: nisaacson@greenbaumlaw.com	Counsel for Liberty Park Commons LLC	<input checked="" type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input checked="" type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
New Jersey Motor Vehicle Commission PO Box 160 Trenton, New Jersey 08666		<input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)
State of New Jersey Division of Taxation Judgment Section - A PO Box 245 Trenton, NJ 08695-0245		<input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF (As authorized by the Court or by rule. Cite the rule if applicable.)

Gurbir S. Grewal, Attorney General Office of the Attorney General RJ Hughes Justice Complex 25 Market Street, Box 080 Trenton, New Jersey 08625-0080		<input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF <small>(As authorized by the Court or by rule. Cite the rule if applicable.)</small>
Vivian Martinez c/o Law office of Patrick Patel 580 Newark Avenue Ste B, Jersey City, NJ 07306 Email: pgplawnj@gmail.com		<input checked="" type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF <small>(As authorized by the Court or by rule. Cite the rule if applicable.)</small>
Ramanjit Chawla, D.A.G. Tax Bankruptcy Debt Recovery Section Division of Law, Richard J. Hughes Justice Complex 25 Market Street P.O. Box 106 Trenton, NJ 08625 Ramanjit.Chawla@law.njoag.gov		<input checked="" type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF <small>(As authorized by the Court or by rule. Cite the rule if applicable.)</small>
Jersey City Tax Collector 280 Grove Street Room 101 Jersey City, New Jersey 07302		<input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF <small>(As authorized by the Court or by rule. Cite the rule if applicable.)</small>
Jai Bajrangi Invest, LLC 2449 Kennedy Blvd. Jersey City, New Jersey 07302		<input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RRR <input type="checkbox"/> Other - ECF <small>(As authorized by the Court or by rule. Cite the rule if applicable.)</small>

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